



NAILAH K. BYRD
CUYAHOGA COUNTY CLERK OF COURTS
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Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed: COMPLAINT
November 16, 2020 16:25

By: RICHARD L. DEMSEY 0003518

Confirmation Nbr. 2117321

PAULA KNIZNER

CV 20 940321

vs.

Judge: WANDA C. JONES

COSTCO WHOLESALE CORPORATION, ET AL

Pages Filed: 7

IN THE COURT OF COMMON PLEAS

CUYAHOGA COUNTY, OHIO

PAULA KNIZNER
3994 Fox Meadow Drive
Medina, Ohio 44256

Plaintiff

-vs-

COSTCO WHOLESALE CORPORATION
c/o CT Corporation System, Statutory Agent
4400 Easton Commons Way, Suite 125
Columbus, Ohio 43219

-and-

NATURAL SELECTION FOODS LLC
DBA EARTHBOUND FARM, LLC
c/o John Mazzei, Statutory Agent
150 Main Street, Suite 400
Salinas, California 93901

-and-

DANONE NORTH AMERICA
12002 Airport Way
Broomfield, Colorado 80021

-and-

CASE NO. _____

JUDGE: _____

COMPLAINT

JURY DEMAND ENDORSED HEREON

JOHN DOE CORPORATION 1-5)
(Real names and addresses unknown))
Growers, producers, sellers, shippers,)
processors, suppliers and distributors of)
Earthbound Farm Organic Spring Mix)
sold to plaintiff by Costco Warehouse 625 and)
which caused plaintiff to become ill on or about)
November 16, 2018)
(including successor or predecessor)
companies thereto))
Defendants)

1. The plaintiff, PAULA KNIZNER, at all times pertinent hereto, resides in the City of Medina, County of Medina, State of Ohio.

2. Plaintiff, PAULA KNIZNER, states that the defendants, COSTCO WHOLESALE CORPORATION, NATURAL SELECTION FOODS LLC DBA EARTHBOUND FARM, LLC and DANONE NORTH AMERICA., are and were at all times pertinent hereto, corporations and/or other business entities organized or existing under the laws of the State of Ohio and/or were licensed and/or were doing business in the State of Ohio, and/or regularly did or solicited business, or engaged in other persistent courses of conduct or derived substantial revenue from goods used or consumed or services rendered in the State of Ohio.

3. Plaintiff, PAULA KNIZNER, states that defendants, JOHN DOE CORPORATION 1-5, at all times pertinent hereto were companies, corporations and/or other business entities (including successor or predecessor companies thereto) organized or existing under the laws of the State of Ohio and/or were licensed and/or were doing business in the State of Ohio and/or regularly did or solicited business or engaged in other persistent courses of conduct or derived substantial revenue from goods used or consumed or services rendered in the State of Ohio. Plaintiff does not know the names of these parties

and could not discover their names despite due diligence. These defendants were the growers, producers, sellers, shippers, processors, suppliers and distributors of Earthbound Farm Organic Spring Mix sold to plaintiff by Costco Warehouse 625 and which caused plaintiff to become ill on or about November 16, 2018. The allegedly defective product was sold to plaintiff by defendant, COSTCO WHOLESALE CORPORATION, at its location in the City of Strongsville, County of Cuyahoga, State of Ohio.

4. Plaintiff, PAULA KNIZNER, states that on or about November, 8, 2018, she purchased the Earthbound Farm Organic Spring Mix at Costco Warehouse 625. She consumed some of the product on or about November 16, 2018, became ill due to the product containing what is believed to be e-coli, for which she sought medical treatment on or about November 18, 2018. Plaintiff did not discover that she had e-coli food poisoning until being advised of same from medical personnel on November 18, 2018.

5. Plaintiff, PAULA KNIZNER, states that the defendants, NATURAL SELECTION FOODS LLC DBA EARTHBOUND FARM, LLC, DANONE NORTH AMERICA and JOHN DOE CORPORATION 1-5 (names and addresses unknown) including their successors or predecessors thereto, were the growers, producers, sellers, shippers, processors, suppliers and distributors of Earthbound Farm Organic Spring Mix sold to plaintiff by Costco Warehouse 625 and which caused plaintiff to become ill on or about November 16, 2018. Defendant, COSTCO WHOLESALE CORPORATION, was the retailer of the tainted and defective Earthbound Farm Organic Spring Mix.

6. Plaintiff, PAULA KNIZNER, states that at all times pertinent hereto, NATURAL SELECTION FOODS LLC DBA EARTHBOUND FARM, LLC, DANONE NORTH AMERICA and JOHN DOE CORPORATION 1-5, were the growers, producers, sellers, shippers, processors, suppliers and distributors of Earthbound Farm Organic Spring Mix sold to plaintiff by Costco Warehouse and

which caused plaintiff to become ill on or about November 16, 2018, referenced in paragraph 5 above, as that term is defined under OHIO REV. CODE STAT. ANN. §2307.71 (I).

7. Plaintiff, PAULA KNIZNER, states that the Earthbound Farm Organic Spring Mix as produced and sold by defendants, COSTCO WHOLESALE CORPORATION, NATURAL SELECTION FOODS LLC DBA EARTHBOUND FARM, LLC, DANONE NORTH AMERICA and JOHN DOE CORPORATION 1-5, was defective as grown, packaged, distributed and sold as described in OHIO REV. CODE STAT. ANN. §§2307 et seq., was defective due to inadequate warnings and instructions as described in OHIO REV. CODE STAT. ANN. §2307.76 and was defective because it did not conform to representations made by the defendants herein as described in OHIO REV. CODE STAT. ANN. §2307.77.

8. Plaintiff, PAULA KNIZNER, states that each of the defective conditions of the Earthbound Farm Organic Spring Mix as described above, pursuant to OHIO REV. CODE STAT. ANN. §2307.73, were singularly a proximate cause of the harm, specifically including, but not limited to food poisoning from e-coli, for which plaintiff seeks to recover compensatory damages as set forth below.

9. Plaintiff, PAULA KNIZNER, states that defendants, COSTCO WHOLESALE CORPORATION, NATURAL SELECTION FOODS LLC DBA EARTHBOUND FARM, LLC , DANONE NORTH AMERICA and JOHN DOE CORPORATION 1-5, were negligent in the growing, packaging, production, marketing, post-marketing and sale of the Earthbound Farm Organic Spring Mix and in failing to provide adequate warnings of the hazards and risks of food poisoning associated therewith.

10. Plaintiff, PAULA KNIZNER, states that as a direct and proximate result of defendants, COSTCO WHOLESALE CORPORATION, NATURAL SELECTION FOODS LLC DBA EARTHBOUND FARM, LLC, DANONE NORTH AMERICA and JOHN DOE CORPORATION

1-5's, defective product, as well as their independent, joint and/or concurrent negligence, she was caused to seek medical and other similar care and treatment and may be caused to seek such similar care and treatment in the future to an extent which cannot presently be determined.

11. Plaintiff, PAULA KNIZNER, states that as a direct and proximate result of defendants, COSTCO WHOLESALE CORPORATION, NATURAL SELECTION FOODS LLC DBA EARTHBOUND FARM, LLC, DANONE NORTH AMERICA and JOHN DOE CORPORATION 1-5's, defective product as well as their independent, joint and/or concurrent negligence, she was caused to incur expense for said medical care and treatment and may be caused to seek such similar care and treatment in the future to an extent which cannot presently be determined.

12. Plaintiff, PAULA KNIZNER, states that as a direct and proximate result of defendants, COSTCO WHOLESALE CORPORATION, NATURAL SELECTION FOODS LLC DBA EARTHBOUND FARM, LLC, DANONE NORTH AMERICA and JOHN DOE CORPORATION 1-5's, defective product as well as their independent, joint and/or concurrent negligence, she was caused to suffer an interference in her ability to go about and perform her daily activities in a normal manner, free from pain and discomfort, and was caused to lose time from work, money and earnings and may be caused to suffer said interferences in the future to an extent which cannot presently be determined.

13. Plaintiff, PAULA KNIZNER, states that as a direct and proximate result of defendants, COSTCO WHOLESALE CORPORATION, NATURAL SELECTION FOODS LLC DBA EARTHBOUND FARM, LLC, DANONE NORTH AMERICA and JOHN DOE CORPORATION 1-5's, defective product as well as their independent, joint and/or concurrent negligence, she was caused to suffer a loss of enjoyment of life and may be caused to suffer said loss in the future to an extent which cannot presently be determined.

14. Plaintiff, PAULA KNIZNER, states further that her injuries may, to some presently unknown extent, be permanent in nature.

WHEREFORE, plaintiff, PAULA KNIZNER, prays for judgment against defendants, COSTCO WHOLESALE CORPORATION, NATURAL SELECTION FOODS LLC DBA EARTHBOUND FARM, LLC, DANONE NORTH AMERICA and JOHN DOE CORPORATION 1-5, jointly and severally, for a sum of money that will fully, fairly, and adequately compensate her for the injuries and damages she sustained as a direct and proximate result of defendants' defective product as well as their independent, joint and/or concurrent negligence, which sum shall exceed Twenty-Five Thousand Dollars (\$25,000.00), together with interest and costs incurred herein.

/s/ Richard L. Demsey, Esquire

S. Ct. No. 0003518

Justin D. Gould, Esquire

S. Ct. No. 0082653

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Attorneys for Plaintiff

JURY DEMAND ENDORSED HEREON

A trial by jury by the maximum number of jurors permitted by law is hereby demanded.

/s/ Richard L. Demsey, Esquire

S. Ct. No. 0003518

Justin D. Gould, Esquire

S. Ct. No. 0082653

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